

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TERRY KUEHNER,	)	2:08cv1319
	)	Electronic Filing
Plaintiff,	)	
	)	Judge Cercone
v.	)	Magistrate Judge Lenihan
	)	
PHD JEFFERY BEARD, et al	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

The above captioned case was initiated on September 22, 2008, by the filing of a Motion to Proceed In Forma Pauperis (ECF No. 1) accompanied by a Complaint. It was originally assigned to Magistrate Judge Lisa Pupo Lenihan, but was reassigned to Judge David S. Cercone on April 16, 2009, upon the filing of an appeal of a Magistrate Judge ruling. The case was referred back to Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules.

The Magistrate Judge's Report and Recommendation (ECF No. 106) filed on October 12, 2010, recommended that the Motion to Dismiss filed by Defendants Myers and Dr. Herbick (ECF No. 76) be granted and that the sealed Motion for Summary Judgment filed by Defendant Dr. Saavedra (ECF No. 92) be granted. Plaintiff filed Objections on October 26, 2010 (ECF No. 108). Plaintiff's Objections do not undermine the recommendation of the magistrate judge.

After a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and the Objections thereto, the following order is entered:

*TH*  
AND NOW, this 17 day of November, 2010;

**IT IS HEREBY ORDERED** that the Motion to Dismiss filed by Defendants Myers and Dr. Herbick (ECF No. 76) is **GRANTED**.

**IT IS FURTHER ORDERED** that the sealed Motion for Summary Judgment filed by Defendant Dr. Saavedra (ECF No. 92) is **GRANTED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 106) dated October 12, 2010, is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

*D. Cercone*

---

David Stewart Cercone  
United States District Judge

cc: Terry Kuehner  
GM-4552  
SCI Mercer  
801 Butler Pike  
Mercer, PA 16137  
(*Via First Class Mail*)

Mary Lynch Friedline, Esquire  
Kathryn M. Kenyon, Esquire  
Samuel H. Foreman, Esquire  
(*Via CM/ECF Electronic Mail*)